IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 926 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BJ MANVAR - Petitioner(s)

Versus

BHARAT VIJAY MILLS LTD - Respondent(s)

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Appearance :
MR AD DESAI for Petitioner(s) : 1,
NANAVATI ASSOCIATES for Respondent(s) : 1,
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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 06/09/2005

ORAL JUDGMENT

1. In the present petition, the petitioner has challenged the legality of order dated 29th November, 2003 passed by Labour Court, Ahmedabad in Recovery Application No.2300/86. By the impugned order the Labour Court was pleased to partially allow the application of the petitioner herein. He was held entitled to an amount of

Rs.34,000/- from the respondent. His claim for payment of difference in dearness allowance and overtime payment was however turned down. The Labour Court observed that for these demands the workman should first prove his entitlement by producing reliable evidence. In the present case, the same has not been done.

2. It is not in dispute that the workman had directly approached the authority by filing recovery application. No Industrial Dispute was raised earlier to establish his demands. The Labour Court was, therefore, justified in observing that before seeking recovery of the disputed amount, it would be necessary for the workman to lead evidence to prove the same. I, therefore, do not find that the Labour Court committed any error in rejecting the prayer of the petitioner partially. The observations made by the Labour Court give ample opportunity to the petitioner to prove his claim through proper proceedings. No interference is, therefore, called for. The petition is rejected. Rule is discharged with no order as to costs.

(Akil Kureshi, J.)

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